

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases

Case No. 5:16-cv-10444

This Document Relates To:
Bellwether III Cases

Hon. Judith E. Levy

VNA'S PROPOSED VERDICT FORM¹

¹ VNA reserves the right to propose amendments to these questions, or to add or remove questions, to conform to the evidence as it develops at trial and to the Court's rulings.

[Proposed] Verdict Form

General Instructions: Begin with Question 1 and continue in order, following the instructions set forth with each question. Additional instructions are in italics. Depending on your answers, there may be questions that you will leave blank.

We, the jury, answer the questions submitted as follows:

I. Standard of Care

Question 1:

Did VNA breach the standard of care for a professional water engineer?

Answer: Yes ____ No ____

- *If your answer is “yes,” GO ON to Question 2.*
- *If your answer is “no,” STOP your deliberations and inform the Court officer that you have reached a verdict.*

II. Injury

Question 2(a):

Did Plaintiff [PLAINTIFF ONE] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *GO ON to Question 2(b).*
-

Question 2(b):

Did Plaintiff [PLAINTIFF TWO] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *GO ON to Question 2(c).*
-

Question 2(c):

Did Plaintiff [PLAINTIFF THREE] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *GO ON to Question 2(d).*

Question 2(d):

Did Plaintiff [PLAINTIFF FOUR] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *GO ON to Question 2(e).*
-

Question 2(e):

Did Plaintiff [PLAINTIFF FIVE] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *GO ON to Question 2(f).*
-

Question 2(f):

Did Plaintiff [PLAINTIFF SIX] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *GO ON to Question 2(g).*

Question 2(g):

Did Plaintiff [PLAINTIFF SEVEN] suffer from:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *If you answered at least one “yes” to all of Questions 2(a) through 2(g), GO ON to Question 3. Follow the instructions before answering the question.*
 - *If you answered at least one “yes” to at least one, but not all of Questions 2(a) through 2(g):*
 - *STOP your deliberations as to any plaintiff for whom you answered only “no” in Question 2(a) through 2(g). You have reached a verdict as to that plaintiff.*
 - *GO ON to Question 3. Follow the instructions before answering the question.*
 - *If you answered only “no” to all of Questions 2(a) through 2(g), STOP your deliberations and inform the Court officer that you have reached a verdict.*
-

III. Causation

Question 3: *Answer this question only if you have not reached a verdict as to [PLAINTIFF ONE]. If you have reached a verdict as to [PLAINTIFF ONE], SKIP this question. GO ON to Question 4 and follow the instructions before answering that question.*

Question 3(a):

If VNA had not breached the standard of care, would City and State officials have acted sooner than they did to lower the level of lead in the water that [PLAINTIFF ONE] consumed?

Answer: Yes ____ No ____

- *If your answer is “yes,” GO ON to Question 3(b).*
 - *If your answer is “no,” STOP your deliberations as to [PLAINTIFF ONE]. You have reached a verdict as to that plaintiff. GO ON to Question 4, and follow the instructions before answering that question.*
-

Question 3(b):

Would the officials’ actions have caused the level of lead in the water that [PLAINTIFF ONE] consumed to go down on a date earlier than it did?

Answer: Yes ____ No ____

- *If your answer is “yes,” GO ON to Question 3(c). Follow the instructions before answering that question.*
- *If your answer is “no,” STOP your deliberations as to [PLAINTIFF ONE]. You have reached a verdict as to that plaintiff. GO ON to Question 4, and follow the instructions before answering that question.*

Question 3(c): *Answer this question only as to the injuries for which you answered “yes” in Question 2(a). In other words, if you answered “no” for an injury in Question 2(a), do not answer this question as to that injury.*

After that date, did [PLAINTIFF ONE] consume an amount of lead from Flint water that was capable of causing his or her:

[INJURY ONE]? Answer: Yes ____ No ____

[INJURY TWO]? Answer: Yes ____ No ____

[INJURY THREE]? Answer: Yes ____ No ____

...

Another injury (specify): _____? Answer: Yes ____ No ____

- *If one or more of your answers is “yes,” GO ON to Question 3(d).*
 - *If all of your answers are “no,” STOP your deliberations as to [PLAINTIFF ONE]. You have reached a verdict as to that plaintiff. GO ON to Question 4, and follow the instructions before answering that question.*
-

Question 3(d):

Was [PLAINTIFF ONE]’s injury actually caused or made worse by consuming lead from Flint water after that date, and not by some other source?

Answer: Yes ____ No ____

- *If your answer is “yes,” GO ON to Question 3(e).*
- *If your answer is “no,” STOP your deliberations as to [PLAINTIFF ONE]. You have reached a verdict as to that plaintiff. GO ON to Question 4, and follow the instructions before answering that question.*

Question 3(e):

Was [PLAINTIFF ONE]’s injury a natural and probable result of VNA’s breach of the standard of care?

Answer: Yes ____ No ____

- *If your answer is “yes,” GO ON to Question 4. Follow the instructions before answering that question.*
- *If your answer is “no,” STOP your deliberations as to [PLAINTIFF ONE]. You have reached a verdict as to that plaintiff. GO ON to Question 4, and follow the instructions before answering that question.*

[Questions 4 through 9 repeat Question 3 for the remaining Plaintiffs.]

- *If your answer is “yes,” GO ON to Question 10. Follow the instructions before answering that question.*
- *If your answer is “no,” STOP your deliberations as to [PLAINTIFF SEVEN]. You have reached a verdict as to that plaintiff.*
 - *If you answered “yes” to at least one of Questions 3(e), 4(e), 5(e), 6(e), 7(e), 8(e), or 9(e), GO ON to Question 10. Follow the instructions before answering that question.*
 - *If you answered “no” to all of Questions 3(e), 4(e), 5(e), 6(e), 7(e), 8(e), and 9(e), STOP your deliberations and inform the Court officer that you have reached a verdict.*

IV. Damages

Question 10: *Answer this question only if you have not reached a verdict as to [PLAINTIFF ONE]. If you have reached a verdict as to [PLAINTIFF ONE], SKIP this question, GO ON to Question 11, and follow the instructions before answering that question.*

Question 10(a):

If you find that [PLAINTIFF ONE] has sustained damages for emotional distress to the present date, give the total amount of damages to the present date:

Answer: \$_____

Question 10(b):

If you find that [PLAINTIFF ONE] will sustain damages for emotional distress in the future, give the total amount of damages for each year in which [PLAINTIFF ONE] will sustain damages:

Answer:

Year	Amount	Year	Amount	Year	Amount
2025	\$	2026	\$	2027	\$
2028	\$	2029	\$	2030	\$
2031	\$	2032	\$	2033	\$
2034	\$	2035	\$	2036	\$
2037	\$	2038	\$	2039	\$
2040	\$	2041	\$	2042	\$
2043	\$...	\$...	\$

Question 10(c):

If you find that [PLAINTIFF ONE] will sustain damages for loss of earning capacity in the future after [PLAINTIFF ONE] has reached the age of 18, give the total amount of damages for each year in which [PLAINTIFF ONE] will sustain damages:

Answer:

Year	Amount	Year	Amount	Year	Amount
2025	\$	2026	\$	2027	\$
2028	\$	2029	\$	2030	\$
2031	\$	2032	\$	2033	\$
2034	\$	2035	\$	2036	\$
2037	\$	2038	\$	2039	\$
2040	\$	2041	\$	2042	\$
2043	\$...	\$...	\$

- *GO ON to Question 11.*

[Questions 11 through 16 repeat Question 4 for the remaining Plaintiffs.]

- *If you found that each plaintiff has sustained damages or will sustain damages in the future, GO ON to Question 17(a).*
- *If you found that some but not all plaintiffs have sustained damages or will sustain damages in the future:*
 - *STOP your deliberations as to any plaintiff whom you found has not sustained damages and will not sustain damages in the future. You have reached a verdict as to that plaintiff.*
 - *GO ON to Question 17(a).*
- *If you found that no plaintiff has sustained damages or will sustain damages in the future, STOP your deliberations and inform the Court officer that you have reached a verdict.*

V. Non-Party At Fault²

Question 17(a):

Did [NON-PARTY ONE] breach a duty owed to Plaintiffs?

Answer: Yes ____ No ____

- *If your answer is “yes,” GO ON to Question 17(b), and follow the instructions before answering that question.*
 - *If your answer is “no,” SKIP Question 17(b) and GO ON to Question 18(a). Follow the instructions before answering that question.*
-

Question 17(b): *Answer this question only as to the plaintiffs whom you found have sustained damages or will sustain damages in the future in Questions 4 through 10. In other words, if you have reached a verdict as to a plaintiff, do not answer this question as to that plaintiff.*

Was [NON-PARTY ONE]’s breach of duty a proximate cause of:

[PLAINTIFF ONE]’s injuries? Answer: Yes ____ No ____

[PLAINTIFF TWO]’s injuries? Answer: Yes ____ No ____

[PLAINTIFF THREE]’s injuries? Answer: Yes ____ No ____

[PLAINTIFF FOUR]’s injuries? Answer: Yes ____ No ____

[PLAINTIFF FIVE]’s injuries? Answer: Yes ____ No ____

[PLAINTIFF SIX]’s injuries? Answer: Yes ____ No ____

[PLAINTIFF SEVEN]’s injuries? Answer: Yes ____ No ____

- *GO ON to Question 18(a).*
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[Questions 18 through 26 repeat Question 17 for each non-party]

- *GO ON to Question 27(a) and follow the instructions before answering that question.*

² VNA will propose the non-parties to be listed on the verdict form based on the evidence at trial.

VI. Allocation of Fault

Question 27(a): *Answer this question only if you have not reached a verdict as to [PLAINTIFF ONE]. If you have reached a verdict as to [PLAINTIFF ONE], SKIP this question. GO ON to Question 27(b) and follow the instructions before answering that question.*

- *Allocate a percentage of fault to each non-party that you found proximately caused [PLAINTIFF ONE]’s injuries in Questions 17 through 26 and to VNA. Specifically:*
 - *If you answered “yes” to Question 17(a) and “yes” for [PLAINTIFF ONE] to Question 17(b), allocate a percentage of fault to [NON-PARTY ONE].*
 - *If you answered “no” to Question 17(a) or “no” for [PLAINTIFF ONE] to Question 17(b), do not allocate fault to [NON-PARTY ONE].*
 - *[Repeat for each non-party]*
- *The total of your allocations of fault for must equal 100%.*

	Allocation of fault for [PLAINTIFF ONE]’s injuries
[NON-PARTY ONE]	%
[NON-PARTY TWO]	%
[NON-PARTY THREE]	%
[NON-PARTY FOUR]	%
[NON-PARTY FIVE]	%
...	
VNA	%
Total	100%

- *GO ON to Question 27(b) and follow the instructions before answering that question.*

[Questions 27(b) through 27(g) repeat Question 27(a) for each remaining Plaintiff.]

Dated: September 16, 2024

Respectfully submitted,

/s/ Michael A. Olsen

Michael A. Olsen
MAYER BROWN LLP
71 S. Wacker Drive
Chicago, IL 60606
(312) 701-7120
molsen@mayerbrown.com

*Attorneys for Veolia Water North
America Operating Services, LLC
Veolia North America, LLC, and
Veolia North America, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2024, I electronically filed this document with the Clerk of the Court using the ECF System, which will send notification to the ECF counsel of record.

By: /s/ Michael A. Olsen
Michael A. Olsen